

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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RITA MONTESI,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:12-cv-02399-JTF-tmp
	)	
NATIONWIDE MUTUAL	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

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ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
GRANTING IN PART AND DENYING IN PART  
DEFENDANT'S MOTION TO DISMISS

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Before the Court is the Defendant's Motion to Dismiss Plaintiff's Claim for Violations of the Tennessee Consumer Protection Act, Bad Faith Penalties, and Punitive and Treble Damages filed on November 27, 2012. (DE #13). Plaintiff filed a response in opposition on December 12, 2012. (DE #17). Defendant filed a reply in support of its motion to dismiss on December 26, 2012. (DE #18). The motion was referred to the Magistrate Judge for a report and recommendation. On August 8, 2013, the Magistrate Judge entered his report, recommending that Defendant's Motion to Dismiss be granted in part and denied in part. (DE #37). No objections have been filed by the Plaintiff.

After reviewing the entire record including the Magistrate Judge's Report, Defendant's Motion to Dismiss, Plaintiff's

Response to the Motion to Dismiss, and Defendant's Reply in Support of the Motion, the Court hereby ADOPTS the Magistrate Judge's Report and Recommendation.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss is GRANTED IN PART and DENIED IN PART. Defendant's Motion to Dismiss Plaintiff's statutory bad faith and fraud-based claims are GRANTED. However, Defendant's Motion to Dismiss Plaintiff's claims pursuant to the Tennessee Consumer Protection Act (TCPA) and for punitive damages are DENIED.

IT IS SO ORDERED this 26th day of August, 2013.

BY THIS COURT:

**s/John T. Fowlkes, Jr.**

JOHN T. FOWLKES, JR.

UNITED STATES DISTRICT JUDGE